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October 18, 1995

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William F. Caton **Acting Secretary** Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION Contact of Seculliary

DOCKET FILE COPY ORIGINAL

Petition for Rulemaking Re:

Dear Mr. Caton:

Enclosed on behalf of Dr. James Whalen ("Petitioner") is an original and four copies of a Petition for Rulemaking.

If you have any questions with regard to this filing, please communicate with undersigned counsel.

Sincerely yours

Enclosures: Orig. and Four

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Dodge

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# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

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In the Matter of	)	OCT 1 8 1995:
Amendment of Section 73.202, Table of Allotments,	)	MM Docket No. 95- CHIES OF SECRETARY
FM Broadcast Stations.	)	
(Machias, Maine)	)	

#### **PETITION FOR RULEMAKING**

On behalf of Dr. James Whalen ("Petitioner"), and pursuant to FCC Rules § 1.401, et seq., we hereby request that the Commission institute a rulemaking proceeding to amend the Table of Allotments, FCC Rule § 73.202(b), to allot Channel 266B to Machias, Maine, as that community's second local FM service, and second full-time aural service. Petitioner hereby states his intention to file an application to apply for the channel if allotted.

Enclosed is a Technical Exhibit prepared by Graham Brock, Inc. showing that Channel 266B can be allotted to Machias consistent with the minimum distance separation requirements of FCC Rule § 73.207, provided the transmitter is located at least 12.75 kilometers west-northwest of Machias.

Machias, which has a population of 2,569, is the county seat of Washington County, Maine. As such, the town hosts county and federal government offices, a local branch of the University of Maine, several secondary and elementary schools, the DownEast Community

Hospital, and dozens of wholesale and retail establishments. Channel 266B, if allocated to Machias, would represent the second full-time, local aural station for the community.<sup>1</sup>

#### **CONCLUSION**

Accordingly, for the foregoing reasons, we hereby request the Commission to issue a Notice of Proposed Rulemaking proposing allotment of Channel 266B to Machias, Maine.

Respectfully submitted,

DR. F. JAMES WHALEN

By:

John C. Dodge

Cole Raywid & Braverman 1919 Pennsylvania Ave., N.W.

Suite 200

Washington, D.C. 20006

(202) 659-9750

His Attorneys

October 18, 1995

Although still listed in the Commission's data base (and therefore properly characterized in the accompanying Technical Exhibit), operating authority for Machias' only AM service evidently was terminated in early 1993. See Letter from Stuart B Bedell, Asst. Chief, Audio Services Division, to Radio Four Broadcasting, Inc. (May 24, 1993). The AM service is not currently operating, hence the reference in the instant pleading that Channel 266B actually would be the second full time aural service for Machias.

## GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

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PETITION FOR RULEMAKING
DR. JAMES WHALEN
ALLOT CHANNEL 266B
MACHIAS. MAINE
October 1995

**TECHNICAL EXHIBIT** 

Copyright 1995

# PETITION FOR RULEMAKING DR. JAMES WHALEN ALLOT CHANNEL 266B MACHIAS. MAINE October 1995

#### TECHNICAL STATEMENT

- 1. This Technical Statement and attached exhibits were prepared on behalf of Dr. James Whalen ("Whalen"), petitioner seeking to allot Channel 266B to Machias, Maine, as that community's second local FM service. In support of this request, the following technical study indicates that Channel 266B can be allotted to Machias, Maine.
- 2. Channel 266B can be allotted to Machias, Maine, at geographic coordinates: North Latitude 44° 44′ 15″ and West Longitude 67° 37′ 16″. This represents a site restriction of 12.75 kilometers west-northwest of the community in order to avoid shortspacing the vacant allotment of Channel 265A at Weymouth, Nova Scotia, and the vacant allotment for Channel 266B at Liverpool, Nova Scotia. From this reference site a 3.16 mV/m contour can be delivered to Machias, Maine.
- 3. Machias, Maine, is located in Washington County, Maine, with a 1990 population of 2,569 persons. Machias presently has an AM and an FM station. Machias is the county seat of Washington County, Maine, and has all of the requisite community identia for the allotment of an FM channel. The proposed allocation of Channel 266B would represent the second FM service in the community and its third full-time aural service to the community.

- 4. Exhibit #1 is a usable area study denoting where a transmitter site for Channel 266B can be located and be clear of all other co- and adjacent channel stations and comply with \$73.207 of the Commission's rules. A transmitter site located in the usable area will also comply with the pertinent treaties between the United States and Canada. Exhibit #2 is a \$73.207 spacing study which indicates that from the reference site Channel 266B at Machias, Maine, is in compliance with spacing regulations and the U.S./Canadian agreement.
- 5. Therefore, Whalen herein requests the Commission amend §73.202(b) of its rules as follows:

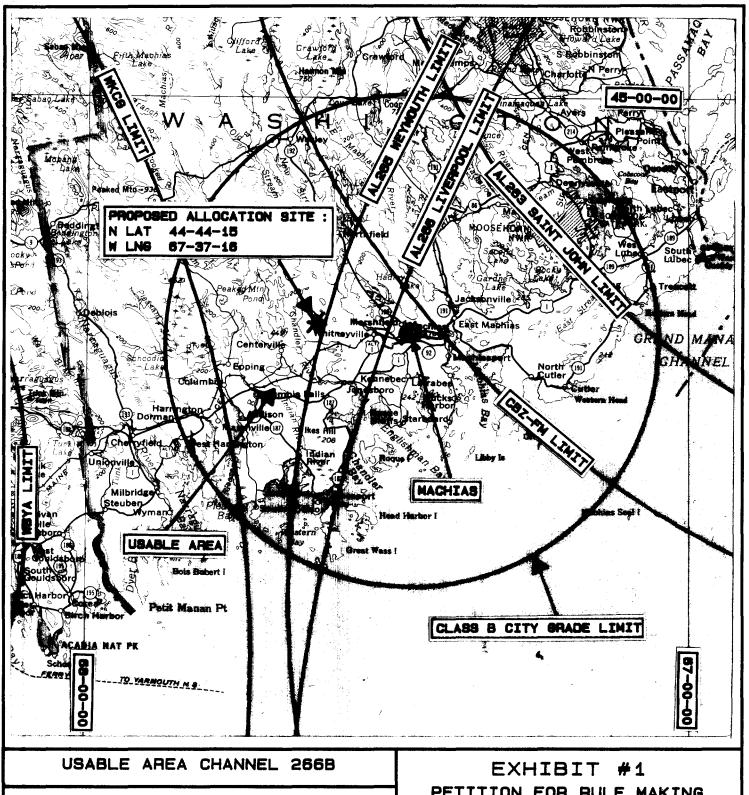
#### Machias, Maine

Present	Proposed
237A	237A, 266B

#### **PUBLIC INTERESTS ASPECTS**

6. The proposed allocation of Channel 266B to Machias, Maine, will provide the community of 2,569 persons with its second FM service and third full-time aural service. A maximum Class B facility constructed at the reference site indicated above will provide 1.0 mV/m service to 9,782 persons. When allotted to Machias, Maine, Whalen will file an application, FCC Form 301, seeking authority to construct the proposed new facility on Channel 266B.

7. The foregoing Technical Statement and attached exhibits were prepared on behalf of Dr. James Whalen by Graham Brock, Inc., his Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. All data relating to FM allocations and facilities was extracted from the NTIA database updated September 29, 1995. We assume no liability for errors or omissions in that database which may be adverse to the requests contained herein.

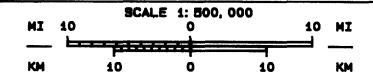


MAP IS A PORTION OF THE 1:500,000 SCALE U.S.G.S. BASE MAP OF MAINE.

### PETITION FOR RULE MAKING DR. JAMES WHALEN

ALLOT CHANNEL 266B MACHIAS, MAINE

October 1995



## GRAHAM BROCK, INC.

**BROADCAST TECHNICAL CONSULTANTS** 

## ALLOCATION STUDY FOR CHANNEL 266B MACHIAS, MAINE USING PROPOSED ALLOCATION SITE AS REFERENCE

RE 44 57	FERENCE 44 15 N 37 16 W		Current CHANNEL	CLASS B rules spac 266 -101.1	ings MHz -		DISPL DATA SEARCH	AY DATES 09-29-95 10-05-95
	CALL	CH# CITY		STATE	BEAR'	D-KM	R-KM	MARGIN
-	AD266 AD	LAT LNC 266B Machias 44 44 15 67 Petition for I	37 16	ME 0.000 kW	0.0 OM	0.00	241.0 149.8	-241.00
	AL265 AL	265A Weymouth 44 25 36 66	01 00	NS 0.000 kW	104.7 0M	132.00 82.0	132.0 82.0	0.00
	AL266 AL	266B Liverpoo 44 02 00 64	1 43 00	NS 0.000 kW	107.7 0M	244.26 151.8	237.0 147.3	7.26
	CBZFM OP CN	268C Saint Jo 45 28 39 66	ohn 14 02	NB 100.000 kW	52.4 372M	136.66 84.9	125.0 77.7	11.66
	WKCG LI CN	267B Augusta 44 18 51 69 Tryon-Seacoas	50 03 Commun	ME 50.000 kW ications	255.8 98M	182.11 113.2 BLH-820	169.0 105.0 726AP	13.11
	AL263 AL	263C Saint Jo 45 28 39 66						
	AR263 RM	263C Saint Jo 45 28 39 66	ohn 14 02	NB 0.000 kW	52.4 0M	136.66 84.9	106.0 65.9	30.66
	WBYA LI CN	269A Searspo: 44 31 27 68 Searsport Broa	rt 57 16 adcastin	ME 1.350 kW g Partne	257.8 213M	108.43 67.4 BLH-940	69.0 42.9 906KC	39.43
						•		

#### SECTION 73.207 SPACING STUDY

NOTE: SPACING TO THE CANADIAN STATIONS
AND VACANT ALLOCATIONS IS MADE
IN ACCORDANCE WITH THE WORKING
ARRANGEMENT FOR ALLOTMENT AND
ASSIGNMENT OF FM BROADCASTING
CHANNELS 201-300 UNDER THE CANADIAN
U.S.A. FM BROADCASTING AGREEMENT
OF 1947 (AS AMENDED).

#### EXHIBIT #2

PETITION FOR RULE MAKING DR. JAMES WHALEN ALLOT CHANNEL 266B MACHIAS, MAINE

October 1995

## GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

#### AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

State of Georgia	)
St. Simons Island	) ss.
County of Glynn	)

**JEFFERSON G. BROCK**, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Dr. James Whalen to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 5th day of October, 1995.

Jefferson G. Brock

4 fffant

Sworn to and subscribed before me this the 5th day of October, 1995

Notary Public, State of Georgia

My Commission Expires: September 12,1999